

REGULATIONS GOVERNING MENTAL HEALTH SERVICES TRANSITION PLANS FOR INCARCERATED JUVENILES

SECTION I.

OVERVIEW OF THE REGULATIONS (6 VAC 35-180)

History & Purpose

Statutory Requirements (Va. Code § [16.1-293.1](#))

During the 2005 session, the General Assembly established § 16.1-293.1 of the Code of Virginia. This provides that the “Board of Juvenile Justice, after consultation with the Department of Mental Health, Mental Retardation and Substance Abuse Services, must promulgate regulations for the planning and provision of postrelease services for persons committed to the Department of Juvenile Justice (DJJ) pursuant to subdivision A 14 of § 16.1-278.8 or placed in a postdispositional detention program pursuant to subsection B of § 16.1-284.1 and identified as having a recognized mental health, substance abuse, or other therapeutic treatment need.” § 16.1-293.1 also specifies certain elements that must be included in the mental health services transition process and plan.

Development of the Regulations

As required, the Department of Juvenile Justice convened a work group consisting of staff from multiple state and local agencies, as well as other interested parties entities. A listing of those agencies and parties that participated in the process is found at the end of this document.

Purpose and Goals of the Regulations

The purpose of the regulations is to ensure the planning and provision of postrelease services addressing the mental health, substance abuse, or other therapeutic treatment needs of incarcerated juveniles/residents as they transition back into their communities. The goal is to ensure implementation and continuity of necessary treatment and services in order to improve short- and long-term outcomes for juvenile offenders with significant needs in these areas. The plan shall address the juvenile’s need for, and ability to access, medication, medical insurance, disability benefits, mental health services, and funding necessary to meet the juvenile’s treatment needs.

Highlights of the Regulations

Interagency Memorandum of Understanding

Each court service unit (CSU) and post-dispositional detention program shall enter into an integrated Memorandum of Understanding (MOU) with the public agencies that are required to participate in the Community Policy and Management Team (CPMT), for each jurisdiction covered by the CSU or post-dispositional detention program.

This MOU is to address:

- the services that will be made available by each agency,
- the role of the Family Assessment and Planning Team (FAPT) and other designated teams in reviewing cases referred;
- the processes for referral of cases for review;
- timelines for service implementation upon the youth's release;
- sources of funding that may be utilized, including methods for maximizing funding resources; and
- methods for handling confidential information.

Juvenile Correctional Center or Detention Facility Case Review

Initial Eligibility Review

At least 90 days before a juvenile's scheduled release, staff at the facility where the juvenile resides will review the juvenile's case, including the juvenile's individualized service plan, to determine if the juvenile qualifies for the mental health services transition plan. Participants in this review meeting shall include the juvenile; the probation or parole officer, or a representative of the Department of Corrections (adult probation), if applicable; and facility staff knowledgeable about the juvenile and his mental health needs. Additionally the juvenile's family, legal guardian, or legally authorized representative and other appropriate community agency staff (e.g., Department of Social Services (DSS) personnel for a youth to be released to DSS custody) shall be invited and encouraged to participate.

Community Transition Planning Meeting

If the juvenile meets the criteria for a mental health transition plan, a community-based planning meeting must occur no later than 30 days prior to their anticipated release. This meeting will be initiated by the juvenile probation or parole officer (in accordance with the specific practices identified in the MOU) or the adult probation officer for the purposes of developing the mental health transition plan. The juvenile and their parents/legal guardian shall participate in this planning meeting.

To facilitate the process of referrals for services and application and enrollment for financial and other assistance, the written plan must be completed at least 10 days prior to the juvenile's release from incarceration. Referrals for services and applications for financial and other assistance should be completed within sufficient timeframes to ensure continuity of necessary treatment and implementation of recommended services upon the juvenile's release.

Required Content of the Mental Health Transition Plan

The plan shall specify:

- the person(s) assigned case management responsibilities for the development and implementation of the mental health transition services plan;
- the kinds of substance abuse, mental health, or other therapeutic treatment that will be made available;

- the provider or providers who will be responsible for delivering each service;
- the projected time frame over which each service will be provided;
- the proposed sources through which the services will be funded; and
- any applications for services, insurance, and other financial assistance that must be completed in order for the juvenile to obtain the identified services. The plan shall assign responsibility for assisting the resident or the resident's parents or guardians in completing such applications.

Actions During the Period of Community Supervision (Probation or Parole)

During the period of active post-release supervision, the person or agency providing the treatment or services must provide at least monthly progress reports to the designated case manager(s).. The progress reports must continue as long as the juvenile remains involved in the treatment and on probation or parole supervision. Every 90 days, the parties to the plan must review and assess the juvenile's progress and continued applicability of the plan.

The individuals and agencies participating in the implementation of the mental health transition plan must convene no later than 30 days before the juvenile's anticipated release from probation or parole supervision to determine if the services should continue beyond the juvenile's release from supervision.

Confidentiality

For all activities conducted to develop and implement a mental health transition plan, confidential information must be handled in accordance with relevant state or federal laws or regulations.

Participants in the Development of the Regulations

Department of Correctional Education
Department of Education
Department of Medical Assistance Services
Department of Rehabilitative Services
Department of Social Services
Department of Corrections
Rappahannock Community Service Board
Chesapeake Community Service Board
Virginia Counsel on Juvenile Detention
Virginia Post-Dispositional Detention Coordinators' Association
Virginia Municipal League
JustChildren Foundation
Virginia Commission on Youth
University of Richmond School of Law Mental Disabilities Law Clinic.

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FOR INCARCERATED JUVENILES**

SECTION II.

**THE MEMORANDUM OF UNDERSTANDING
(6 VAC 35-180-50)**

Each Locality Must Develop a Memorandum of Understanding

The regulations require each court service unit and post-dispositional detention program to develop “a single, integrated Memorandum of Understanding (MOU) with the public agencies that are required to participate in the Community Policy and Management Team (CPMT), as established by § 2.2-5205 of the Code of Virginia, for each jurisdiction covered by the CSU or post-dispositional detention program.” Other public or private agencies may be party to these agreements as appropriate.

The MOU **is not** intended to be a purchase of service agreement. The MOU should reflect each locality’s plans for meeting the requirements in the regulations and each agency’s participation in the provision of services to juveniles and families identified as having a recognized mental health need as defined in the regulations. The regulations require seven distinct areas that must be addressed in the MOU. A sample MOU is provided to assist the development of an MOU. The model MOU includes the required elements as well as suggested information that will provide for a clear and concise document.

MODEL MEMORANDUM OF UNDERSTANDING

**MEMORANDUM OF UNDERSTANDING IN ACCORDANCE WITH THE REGULATIONS
GOVERNING MENTAL HEALTH SERVICES TRANSITION PLANS FOR INCARCERATED
JUVENILES (6 VAC 35-180) AND THE DEVELOPMENT OF THE MENTAL HEALTH
TRANSITION PLAN (§16.1-293.1)**

- I. PARTIES TO THE AGREEMENT:** In accordance with the “*Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles*” the below listed agencies have entered into this MOU:
- A. the court service unit
 - B. the local detention facility (applicable only to those localities that operate a post-dispositional program)
 - C. the community services board / behavioral health authority
 - D. the local department of health,
 - E. the local department of social services,
 - F. the local school division.
 - G. *[Each individual jurisdiction may include any additional parties to this agreement]: Parties to the agreement may also include a representative of a private organization or association of providers for children’s or family services if such organizations or associations are located within the locality. Other public or private agencies may be party to this agreement as appropriate.*
- [The specific names/designations of these agencies should be included (e.g., the 13th District Court Service Unit, the Merrimac Juvenile Detention Center, the Chesterfield County Community Services Board, City of Roanoke Public Schools.)]
- II. PERIOD OF MOU:** This MOU shall remain in force and effect until one of the parties to this MOU gives written notice to all of the other parties terminating the MOU. Any modifications to this MOU shall be implemented only upon agreement of all parties.
- III. PURPOSE:** The purpose of the MOU is to establish a process for the planning and provision of post-release services addressing the mental health, substance abuse, or other therapeutic treatment needs of incarcerated juveniles/residents as they transition back into their communities. The goal is to ensure implementation and continuity of necessary treatment and services in order to improve short- and long-term outcomes for juvenile offenders with significant needs in these areas. The MOU provides for the resources for developing a mental health transition plan that addresses the juvenile’s need for, and ability to access, medication,

medical insurance, disability benefits, mental health services, and funding necessary to meet the juvenile's treatment needs.

IV. TARGET POPULATION:

The target population covered under this MOU are individuals, through the age of 21, who have been confined in a post-dispositional detention program or in a juvenile correctional facility who have specific needs for ongoing mental health and related treatment services following their release from incarceration and who are under the supervision of a court service unit serving the juvenile and domestic relations court.

V. SCOPE OF CONTENTS OF THE MEMORANDUM OF UNDERSTANDING:

A. Responsibilities for the development and implementation of the mental health transition plan

[Each locality will select the wording that will best meet their individual needs. This wording can be modified to reflect individual jurisdictions unique methods; however, this section must identify how the process will work within the locality. More than one option can be selected based on the status of cases. For example, all foster care cases could go through the FAPT while all other cases could go through a Community Mental Health Transition Team. If more than one option is selected, then it shall be designated which Team will be used for specific case types.]

1. The Family Assessment and Planning Team (FAPT) shall be responsible for the development and implementation of the mental health transition plan
2. A Community Mental Health Transition Planning Team shall be established and responsible for the development and implementation of the mental health transition plan. The Community Mental Health Transition Planning Team shall consist of representatives from the following agencies:
 - a. *List agencies*
3. The Community Mental Health Transition Team shall be determined on a case by case basis and established based on the needs of the juvenile. At a minimum the Team will consist of the following participants:
 - a. *List minimum agencies that will participate. Typically this will include the Court Service Unit and the CSB.*

B. Available treatment and case management services:

[The regulations require that the MOU identify the substance abuse, mental health, or other therapeutic treatment and case management services that the local agencies will make available for juveniles being released from incarceration. Below is suggested wording for

minimum service provision from agencies. This is to serve as an example and would need to be elaborated upon to be all inclusive of services provided by individual agencies that are parties to the agreement.]

1. The Court Service Unit will provide the following services:
 - a. Case management for juveniles on probation or parole;
 - b. Make referrals to DJJ funding sources as appropriate and as designated in the Mental Health Transition Plan;
 - c. Assist the juvenile and the juvenile's family in making the necessary applications for identified funding resources.
2. The Community Service Board / Behavioral Health authority will provide the following services:
 - a. Case management for juveniles upon release from court supervision;
 - b. Substance abuse and other mental health treatment for juveniles who qualify for services through the CSB/BHA
3. The Department of Social Services will provide the following services:
 - a. Case management for juveniles who are in the custody of the DSS;
 - b. Assist the juvenile and the juvenile's family in making the necessary applications for identified funding sources;
 - c. Make referrals to FAPT for funding approval for identified services.
4. The local school division will provide the following services:
 - a. List services
5. The Department of Health:
 - a. List services
6. The Post-Dispositional Detention Program will provide the following services during the period of the juvenile's participation:
 - a. Case management.
 - b. Substance abuse services

C. Process for making necessary referrals as specified in the plan:

1. Each party to this MOU shall make the necessary referrals as specified and designated in the plan per their agency's referral process for applying for the identified services and/or funding sources.
2. Each party to this MOU shall maximize available resources within their agencies by making applications to their identified funding, benefits or resources based on their agency's procedures.

D. Agency funding sources that may be utilized to provide services shall include, but not be limited to:

1. The Department of Juvenile Justice:
 - a. Community-based Transitional Services Funding
 - b. Community-based Substance Abuse Services Funding
 - c. Community-based Mental Health Treatment funding
 - d. Other funding sources that may be available by DJJ.
2. Local Funding:
 - a. Comprehensive Services Act (CSA)
 - b. Virginia Juvenile Community Crime Control Act (VJCCCA)
3. Community Services Board:
 - a. Medicaid
 - b. Third-party insurance
 - c. Mental Health Initiative funds per DMHMRSAS usage guidelines
 - d. *List other available funding sources*
4. Department of Social Services:
 - a. *Medicaid*
 - b. *List available funding sources*
5. Department of Health:

a. List available funding sources

6. Post-dispositional Detention Program:

a. List available funding sources

7. Other Funding sources:

a. Medicaid

b. State Children's Health Insurance Program (SCHIP)

c. SSI

d. Department of Rehabilitative Services funding

e. Insurance

f. List any other available funding sources

E. Time frames for implementation of services upon the resident's release from incarceration:

1. Each party to this agreement understands that immediate implementation of service provision upon release from incarceration is essential to successful mental health treatment planning and every effort will be made to insure services begin within a reasonable time frame.
2. Each party to this agreement shall insure that the implementation of services shall begin based on the start date designated in the plan.
3. Start dates designated in the plan shall be based on identified needs of the juvenile and each agency's policy and procedures for the initiation of services.

F. Confidentiality:

All parties to this agreement shall adhere to all Federal and State laws and regulations regarding confidentiality and sharing of all juvenile offender information, mental health treatment information and substance abuse treatment information

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IMPLEMENTATION GUIDELINES**

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Court Service Unit: By: _____ Title: _____ Date: _____	Community Service Board: By: _____ Title: _____ Date: _____
Department of Health: By: _____ Title: _____ Date: _____	Department of Social Services: By: _____ Title: _____ Date: _____
Local School Division: By: _____ Title: _____ Date: _____	Other Local Government Entity (as applicable) By: _____ Title: _____ Date: _____
Private Provider(s)(as applicable) By: _____ Title: _____ Date: _____	